

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

TIMOTHY J. BRUNKE,
Plaintiff,

Case No. 1:23-cv-214
Litkovitz, M.J.

vs.

COMMISSIONER OF
SOCIAL SECURITY,
Defendant.

ORDER

On January 2, 2024, counsel for plaintiff filed a notice that plaintiff had died on October 2, 2023. (Doc. 11). Counsel stated that the deceased plaintiff was not married and was survived by his adult sister, Renee A. Lima. On January 24, 2024, decedent's counsel filed a motion to substitute Ms. Lima as plaintiff (Doc. 12). The Commission responded, noting that he did not have a specific objection to the proposed substitution and deferred to the Court. (Doc. 13). He did, however, point out that decedent's counsel failed to provide any evidence that Ms. Lima met the requirements for substitution under Fed. R. Civ. P. 25(a)(1). The Court set the matter for a hearing on March 11, 2024 at 10:00 a.m. (Doc. 14).

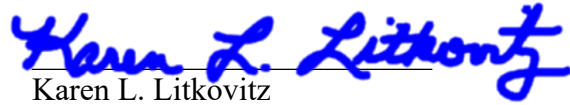
On March 5, 2024, decedent's counsel filed a notice that he had an adult son, Timothy Thomas Brunke. (Doc. 18). Counsel noted that he has been attempting to contact this son but has had no success as of the date of the notice.

Given that Ms. Lima's status alone as decedent's sister does not satisfy the requirements for substitution under Rule 25(a)(1); that decedent's counsel did not file any evidence otherwise supporting substitution; and that counsel filed a notice that decedent had an adult son, the Court will **DENY** the motion to substitute Ms. Lima as plaintiff. (Doc. 12). The Court will **VACATE** the order setting a hearing on March 11, 2024 at 10:00 a.m. (Doc. 14). The Court hereby

ORDERS decedent's counsel to file a timely motion for substitution pursuant to Rule 25(a)(1) of decedent's adult son with supporting evidence.

IT IS SO ORDERED.

Date: 3/7/2024



Karen L. Litkovitz
Chief United States Magistrate Judge